

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

IN RE:

§

CHAPTER 7

§

LEO EDWARD WHELAN,

§

§

CASE NO. 15-41659

§

Debtor.

§

§

DEEP CREEK RESOURCES, LLC

§

Plaintiff,

§

§

v.

§

§

ADVERSARY NO. 16-4016**LEO EDWARD WHELAN,**

§

§

Defendant.

§

§

AGREED FINAL JUDGMENT

ON THIS DAY, Plaintiff Deep Creek Resources, LLC (“Deep Creek”) and Defendant Leo Edward Whelan (“Whelan”) filed their Agreed Motion for Entry of Final Judgment. The Court finds that this Agreed Final Judgment should be approved and entered in accordance with the agreement of the parties as follows:

IT IS ORDERED, ADJUDGED AND DECREED that the debt evidenced by the Agreed Judgment entered by the 192nd Judicial District, Dallas County, Texas on September 17, 2013 (the “State Court Judgment”), and supported by Deep Creek’s Proof of Claim Number 10, is hereby excepted from discharge under 11 U.S.C. § 523(a). As such, Whelan’s debt to Deep Creek in the amount of \$3,918,970.63 shall not be discharged in the above-referenced bankruptcy proceeding.

IT IS FURTHER ORDERED that the debt evidenced by this Judgment shall be treated by the parties as follows:

- a. Whelan shall make minimum payments of \$150,000 per year, beginning at the one-year anniversary of the earlier of (i) the date Whelan's above-referenced bankruptcy case is closed; (ii) the date Whelan's above-referenced bankruptcy case is dismissed; or (iii) the date the Court grants or denies Whelan's discharge (the "First Payment Year").
- b. Whelan shall pay Deep Creek a percentage of any brokerage commissions (net of any income tax allocations) due to Whelan as follows:
 - i. Whelan shall pay Deep Creek 60% of any commissions under \$700,000;
 - ii. Whelan shall pay Deep Creek 75% of any commissions between \$700,001 and \$1,000,000; and
 - iii. Whelan shall pay Deep Creek 80% of any commissions over \$1,000,001.
- c. If Whelan pays Deep Creek \$3,000,000 of the outstanding debt within three (3) years of the First Payment Year ("Early Payment"), the parties shall consider Whelan's debt under the judgment paid in full. If Whelan does not complete Early Payment, Whelan shall remain liable for the full amount of his debt to Deep Creek, in the amount of \$3,918,970.63.
- d. Whelan shall provide Deep Creek with a monthly accounting and report on all income related activities. Such accountings and reports shall be prepared by a certified public accountant.

IT IS FURTHER ORDERED that Deep Creek shall not attempt to collect on or pursue any legal action in connection with this Judgment unless Whelan fails to comply with one of the requirements listed above. In the event Whelan fails to comply with one of the above-listed requirements, Deep Creek shall be allowed all writs and processes necessary in the enforcement and collection of the Judgment in the full amount of \$3,918,970.63.

IT IS FURTHER ORDERED that the parties shall bear their own costs and fees incurred in this adversary proceeding.

IT IS FURTHER ORDERED that this Judgment is final and shall dispose of all claims and parties.

IT IS FURTHER ORDERED that all relief not expressly granted herein is denied.

Signed on 06/17/2016

A handwritten signature in cursive script, appearing to read "Bill Parker", is written above a horizontal line.

THE HONORABLE BILL PARKER
UNITED STATES BANKRUPTCY JUDGE

**AGREED AS TO FORM AND SUBSTANCE
AND ENTRY REQUESTED:**

/s/ Lauren K. Drawhorn

David J. Drez III

State Bar No. 24007127

david.drez@wickphillips.com

Lauren K. Drawhorn

State Bar No. 24074528

lauren.drawhorn@wickphillips.com

WICK PHILLIPS GOULD & MARTIN, LLP

100 Throckmorton Street, Suite 500

Fort Worth, Texas 76102

Telephone: (817) 332-7788

Facsimile: (817) 332-7789

ATTORNEYS FOR

DEEP CREEK RESOURCES, LLC

/s/ Robert T. DeMarco

Robert T. DeMarco

State Bar No. 24014543

robert@demarcomitchell.com

DEMARCO-MITCHELL, PLLC

1255 West 15th St., 805

Plano, TX 75075

Telephone: (972) 578-1400

**ATTORNEY FOR LEO EDWARD
WHELAN**